

AMENDED IN SENATE JULY 16, 2003

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 446

Introduced by Assembly Member Matthews

February 14, 2003

An act to amend Sections ~~210, 215~~, 215 and 220 of, *and to add Section 210.1 to*, the Labor Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 446, as amended, Matthews. State employees: wages.

Existing law sets forth the requirements for payment cycles for employees of private employers, and provides that any person who fails to pay the wages of these employees as provided in specified provisions is subject to a civil penalty, and any person who violates certain of these provisions is guilty of a misdemeanor.

This bill would require that wages earned by state employees with regularly designated paydays be paid on those days. For labor performed in excess of the normal work period, the bill would require that employees be paid no later than the next payroll period. The bill would also specify when permanent intermittent state employees and state employees that do not have regularly designated paydays are paid. It would specify that civil and misdemeanor penalties would apply for violation of these requirements.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 210 of the Labor Code is amended to~~
2 ~~read:~~

3 ~~210. In addition to, and entirely independent and apart from,~~
4 ~~any other penalty provided in this article, every person who fails~~
5 ~~to pay the wages of each employee as provided in Sections 204,~~
6 ~~204b, 204.1, 204.2, 205, 205.5, and 1197.5, and in subdivision (c)~~
7 ~~of Section 220, shall be subject to a civil penalty as follows:~~

8 ~~(a) For any initial violation, fifty dollars (\$50) for each failure~~
9 ~~to pay each employee.~~

10 ~~(b) For each subsequent violation, or any willful or intentional~~
11 ~~violation, one hundred dollars (\$100) for each failure to pay each~~
12 ~~employee, plus 25 percent of the amount unlawfully withheld.~~

13 ~~The penalty shall be recovered by the Labor Commissioner as~~
14 ~~part of a hearing held to recover unpaid wages and penalties~~
15 ~~pursuant to this chapter or in an independent civil action. The~~
16 ~~action shall be brought in the name of the people of the State of~~
17 ~~California and the Labor Commissioner and the attorneys thereof~~
18 ~~may proceed and act for and on behalf of the people in bringing~~
19 ~~these actions. All money recovered therein shall be paid into the~~
20 ~~State Treasury to the credit of the General Fund.~~

21 ~~SECTION 1. Section 210.1 is added to the Labor Code, to~~
22 ~~read:~~

23 ~~210.1. In addition to, and entirely independent and apart~~
24 ~~from, any other penalty provided in this article, every person who~~
25 ~~fails to pay the wages of each employee as provided in subdivision~~
26 ~~(c) of Section 220 shall be subject to the civil penalties specified~~
27 ~~in Section 210.~~

28 ~~SEC. 2. Section 215 of the Labor Code is amended to read:~~

1 215. Any person, or the agent, manager, superintendent or
2 officer thereof, who violates any provision of Section 204, 204b,
3 205, 207, 208, 209, 212, or 220 is guilty of a misdemeanor. Any
4 failure to keep posted any notice required by Section 207 is prima
5 facie evidence of a violation of those sections.

6 SEC. 3. Section 220 of the Labor Code is amended to read:

7 220. (a) Sections 201.5, 201.7, 203.1, 203.5, 204, 204a,
8 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of
9 wages of employees directly employed by the State of California.
10 Except as provided in subdivision (b), all other employment is
11 subject to these provisions.

12 (b) Sections 200 to 211, inclusive, and Sections 215 to 219,
13 inclusive, do not apply to the payment of wages of employees
14 directly employed by any county, incorporated city, or town or
15 other municipal corporation. All other employments are subject to
16 these provisions.

17 (c) (1) Notwithstanding any other provision of law, wages
18 earned by state employees with regularly designated paydays shall
19 be paid on those days. For labor performed in excess of the normal
20 work period, those employees shall be paid no later than the next
21 regular payroll period.

22 (2) Permanent intermittent state employees and state
23 employees that do not have regularly designated paydays shall be
24 paid as follows:

25 (A) For labor performed between the first and the 15th days of
26 the month, inclusive, employees shall be paid between the 16th
27 and the 26th day of the month in which the labor was performed.

28 (B) For labor performed between the 16th and the last day of
29 the month, inclusive, employees shall be paid between the first and
30 the 10th day of the month following the month in which the labor
31 was performed.

32 SEC. 4. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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